

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LAZARITO MATHEU,
AIDALI RIVERA,
WILILAM RIVERA, and
HECTOR RODRIGUEZ,

Plaintiffs,
v.
CASE NO.: 23cv1330

CITY OF WAUWATOSA,
FORMER CHIEF BARRY WEBER,
DEXTER SCHLEIS, and
JOHN DOES POLICE OFFICERS 1 – 100,

Defendants.

**DEFENDANTS' CITY OF WAUWATOSA, BARRY WEBER, AND DEXTER SCHLEIS'
ANSWER AND AFFIRMATIVE DEFENSES**

Defendants, City of Wauwatosa, Former Chief Barry Weber, and Dexter Schleis, by their attorneys, WIRTH + BAYNARD, submit their Answer and Affirmative Defenses to Plaintiffs' Complaint (Dkt. No. 1) as follows:

I. INTRODUCTION

1. Answering paragraph 1, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

NATURE OF THE CLAIM

2. Answering paragraph 2, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

3. Answering paragraph 3, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

4. Answering paragraph 4, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

5. Answering paragraph 5, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

6. Answering paragraph 6, admit that on the evening of October 9, 2020, a crowd had gathered to protest in Wauwatosa, Wisconsin.

7. Answering paragraph 7, admit that on the evening of October 9, 2020, several persons involved in the protest in Wauwatosa, WI were detained, arrested, and/or given municipal tickets for violating an Emergency Order.

8. Answering paragraph 8, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

9. Answering paragraph 9, admit that William Rivera was in a car with Aidali Rivera, Lazarito Matheu, and Hector Rodriguez. As to the remaining allegations, assert that the paragraph is not a full or complete therefore lack knowledge and information to form a belief as to the truth of the allegation and put plaintiffs to their proof.

10. Answering paragraph 10, deny that Rivera, Rivera, Matheu and Rodriguez were “unlawfully arrested.” As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

11. Answering paragraph 11, deny.

12. Answering paragraph 12, deny.

13. Answering paragraph 13, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

14. Answering paragraph 14, deny.

15. Answering paragraph 15, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

16. Answering paragraph 16, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

II. JURISDICTION AND VENUE

17. Answering paragraph 17, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

18. Answering paragraph 18, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

III. JURY DEMAND

19. Answering paragraph 19, assert that the allegation in this Paragraph is a conclusion of law to which no response is required.

IV. PARTIES TO THE COMPLAINT

20. Answering paragraph 20, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

21. Answering paragraph 21, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

22. Answering paragraph 22, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

23. Answering paragraph 23, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

24. Answering paragraph 24, admit.

25. Answering paragraph 25, assert that the allegation Weber is named in his individual capacity and official capacity is a conclusion of law to which no response is required. As to the remaining allegations in this paragraph, admit.

26. Answering paragraph 26, assert that the allegation Dexter Schleis is named in his individual capacity is a conclusion of law to which no response is required. As to the remaining allegations in this paragraph, assert that Plaintiffs reference “Mitchell” presumably in error and therefore Defendants cannot answer.

27. Answering paragraph 27, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

V. STATEMENT OF FACTS

28. Answering paragraph 28, admit.

29. Answering paragraph 29, admit.

30. Answering paragraph 30, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

31. Answering paragraph 31, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

32. Answering paragraph 32, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

33. Answering paragraph 33, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

34. Answering paragraph 34, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

35. Answering paragraph 35, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

36. Answering paragraph 36, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

37. Answering paragraph 37, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

38. Answering paragraph 38, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

39. Answering paragraph 39, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

40. Answering paragraph 40, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

41. Answering paragraph 41, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

42. Answering paragraph 42, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

43. Answering paragraph 43, deny all allegations as they relate to Defendant Schleis. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

44. Answering paragraph 44, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

45. Answering paragraph 45, deny all allegations as they relate to Defendant Schleis and deny any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

46. Answering paragraph 46, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

47. Answering paragraph 47, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

48. Answering paragraph 48, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

49. Answering paragraph 49, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

50. Answering paragraph 50, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

51. Answering paragraph 51, deny all allegations as they relate to Defendant Schleis. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

52. Answering paragraph 52, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

53. Answering paragraph 53, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

54. Answering paragraph 54, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

55. Answering paragraph 55, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

56. Answering paragraph 56, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

57. Answering paragraph 57, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

58. Answering paragraph 58, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

59. Answering paragraph 59, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

60. Answering paragraph 60, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

61. Answering paragraph 61, deny all allegations as they relate to Defendant Schleis. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

62. Answering paragraph 62, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

63. Answering paragraph 63, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

64. Answering paragraph 64, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

65. Answering paragraph 65, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

66. Answering paragraph 66, deny.

67. Answering paragraph 67, deny.

68. Answering paragraph 68, deny.

69. Answering paragraph 69, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

70. Answering paragraph 70, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

71. Answering paragraph 71, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

72. Answering paragraph 72, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

73. Answering paragraph 73, deny.

74. Answering paragraph 74, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

75. Answering paragraph 75, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

76. Answering paragraph 76, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

77. Answering paragraph 77, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

78. Answering paragraph 78, assert that this is not a complete thought and therefore deny.

79. Answering paragraph 79, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

80. Answering paragraph 80, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

81. Answering paragraph 81, deny.

82. Answering paragraph 82, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

83. Answering paragraph 83, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

84. Answering paragraph 84, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

85. Answering paragraph 85, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

86. Answering paragraph 86, deny.

87. Answering paragraph 87, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

88. Answering paragraph 88, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

89. Answering paragraph 89, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

90. Answering paragraph 90, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

91. Answering paragraph 91, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

92. Answering paragraph 92, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

93. Answering paragraph 93, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

94. Answering paragraph 94, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

95. Answering paragraph 95, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

96. Answering paragraph 96, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

97. Answering paragraph 97, admit.

98. Answering paragraph 98, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

99. Answering paragraph 99, deny.

100. Answering paragraph 100, deny.

101. Answering paragraph 101, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

102. Answering paragraph 102, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

103. Answering paragraph 103, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

104. Answering paragraph 104, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

105. Answering paragraph 105, deny.

106. Answering paragraph 106, deny.

107. Answering paragraph 107, deny.

108. Answering paragraph 108, deny.

109. Answering paragraph 109, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations,

lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

110. Answering paragraph 110, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

111. Answering paragraph 111, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

112. Answering paragraph 112, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a believe as to the truth of the allegations and put plaintiffs to their proof.

113. Answering paragraph 113, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

FIRST CLAIM FOR RELIEF
42 U.S.C. § 1983 – Fourth and Fourteenth Amendment Violation – Excessive Force
All Plaintiffs v. All Defendants

114. Answering paragraph 114, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

115. Answering paragraph 115, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack

knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

116. Answering paragraph 116, deny.

117. Answering paragraph 117, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, admit.

118. Answering paragraph 118, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, admit.

119. Answering paragraph 119, deny.

120. Answering paragraph 120, deny.

121. Answering paragraph 121, deny.

122. Answering paragraph 122, deny.

123. Answering paragraph 123, deny.

124. Answering paragraph 124, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

125. Answering paragraph 125, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

126. Answering paragraph 126, deny.

127. Answering paragraph 127, deny.

128. Answering paragraph 128, deny Defendants used excessive force against Plaintiffs.

Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

129. Answering paragraph 129, deny Defendants used excessive force against Plaintiffs. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

130. Answering paragraph 130, deny.

131. Answering paragraph 131, deny.

132. Answering paragraph 132, deny.

133. Answering paragraph 133, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

134. Answering paragraph 134, deny.

135. Answering paragraph 135, deny.

136. Answering paragraph 136, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

137. Answering paragraph 137, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

138. Answering paragraph 138, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny

139. Answering paragraph 139, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny

SECOND CLAIM FOR RELIEF
42 U.S.C. § 1983 – Fourteenth Amendment – Due Process
All Plaintiffs v. All Defendants

140. Answering paragraph 140, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

141. Answering paragraph 141, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put

142. Answering paragraph 142, deny.

143. Answering paragraph 143, deny.

144. Answering paragraph 144, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, deny.

145. Answering paragraph 145, deny.

146. Answering paragraph 146, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

147. Answering paragraph 147, deny.

148. Answering paragraph 148, deny.

149. Answering paragraph 149, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

150. Answering paragraph 150, deny.

151. Answering paragraph 151, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

THIRD CLAIM FOR RELIEF
42 U.S.C. – Fourteenth Amendment Municipality Liability (Monell)
All Plaintiffs v. City of Wauwatosa

152. Answering paragraph 152, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

153. Answering paragraph 153, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. Assert that all other allegations in this Paragraph are conclusions of law to which no response is required.

154. Answering paragraph 154, deny.

155. Answering paragraph 155, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As further response, admit that none of the named defendants were disciplined because no such discipline was warranted.

156. Answering paragraph 156, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

157. Answering paragraph 157, deny.

158. Answering paragraph 158, deny.

159. Answering paragraph 159, deny.

160. Answering paragraph 160, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, deny.

161. Answering paragraph 161, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

162. Answering paragraph 162, deny.

163. Answering paragraph 163, deny.

164. Answering paragraph 164, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

165. Answering paragraph 165, deny.

166. Answering paragraph 166, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

FOURTH CLAIM FOR RELIEF
42 U.S.C. § 1983 – Failure to Intervene (8th and 14th Amendment)
All Plaintiffs v. All Defendants

167. Answering paragraph 167, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

168. Answering paragraph 168, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

169. Answering paragraph 169, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

170. Answering paragraph 170, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

171. Answering paragraph 171, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

172. Answering paragraph 172, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

173. Answering paragraph 173, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

174. Answering paragraph 174, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

175. Answering paragraph 175, deny.

176. Answering paragraph 176, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

177. Answering paragraph 177, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

178. Answering paragraph 178, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

179. Answering paragraph 179, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

180. Answering paragraph 180, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

FIFTH CLAIM FOR RELIEF

42 U.S.C. § 1983 – Unlawful Arrest/Detention (5th and/or 14th Amendment)

October 9, 2020

All Plaintiffs v. Defendants John Doe Officers, Dexter Schleis, and Wauwatosa

181. Answering paragraph 181, deny.

182. Answering paragraph 182, deny.

183. Answering paragraph 183, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, deny.

184. Answering paragraph 184, deny.

SIXTH CLAIM FOR RELIEF

42 U.S.C. § 1983 – Unlawful Arrest/Detention (5th and/or 14th Amendment)

October 10, 2020

Plaintiffs William Rivera, Hector Rodriguez, and Lazarito Matheu v. Defendants John Doe Officers, Deter Schleis, and Wauwatosa

185. Answering paragraph 185, deny.

186. Answering paragraph 186, deny.

187. Answering paragraph 187, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, deny.

188. Answering paragraph 188, deny.

SEVENTH CLAIM FOR RELIEF
Failure to Train and Supervise
All Plaintiffs v. City of Wauwatosa and Barry Weber

189. Answering paragraph 189, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

190. Answering paragraph 190, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

191. Answering paragraph 191, admit.

192. Answering paragraph 192, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

193. Answering paragraph 193, admit.

194. Answering paragraph 194, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

195. Answering paragraph 195, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

196. Answering paragraph 196, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack

knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

EIGHTH CLAIM FOR RELIEF
All Plaintiffs v. Defendants Dexter Schleis and John Doe Officers

197. Answering paragraph 197, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

198. Answering paragraph 198, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

199. Answering paragraph 199, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

200. Answering paragraph 200, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

201. Answering paragraph 201, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

NINTH CLAIM FOR RELIEF
Assault
(All Plaintiffs v. Defendants Dexter Schleis and John Doe Officers)

202. Answering paragraph 202, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

203. Answering paragraph 203, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

204. Answering paragraph 204, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

205. Answering paragraph 205, assert that the allegations in this Paragraph are conclusions of law to which no response is required.

206. Answering paragraph 206, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

207. Answering paragraph 207, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

208. Answering paragraph 208, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

209. Answering paragraph 209, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

210. Answering paragraph 210, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

211. Answering paragraph 211, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny.

TENTH CLAIM FOR RELIEF
State Law Indemnification (Wis. Stat. § 895.46)

212. Answering paragraph 212, Defendants incorporate by reference the answers contained in the foregoing paragraphs.

213. Answering paragraph 213, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

214. Answering paragraph 214, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

215. Answering paragraph 215, any allegations that purport to make a claim of improper or unlawful conduct on the part of defendants, deny. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

216. Answering paragraph 216, assert that the allegations in this Paragraph are conclusions of law to which no response is required. As to the remaining allegations, lack knowledge and information sufficient to form a belief as to the truth of the allegations and put plaintiffs to their proof.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Any injuries or damages suffered by Plaintiffs were caused by their own conduct and/or the conduct and contributory negligence of a third party other than the Defendants.
4. Plaintiffs may have failed to mitigate their damages.
5. The conduct attributed to these responding defendants did not constitute any violation of a cognizable constitutional right and this action must be summarily dismissed.
6. All of the acts of the responding Defendants were undertaken in good faith and not motivated by malice or the intent to harm.

7. The defendants are not liable under 42 USC §1983 because their actions were constitutional under the circumstances or exigent circumstances and did not compromise or deprive the plaintiff of any rights.

8. The defendants acted at all times reasonably and with a good faith belief that their actions were lawful and were not in violation of any federal or state constitutional right.

9. Plaintiffs are not entitled to punitive damages.

10. The defendants acted within the discretionary scope of their authority as public officials in response to the circumstances and/or exigent circumstances.

11. Defendants are entitled to discretionary act immunity.

12. The actions of the responding individual defendants were objectively reasonable, and they are entitled to immunity and/or qualified immunity from claims, as well as limitations on actions and damages, as provided by Wisconsin Statutes, by federal regulations, and by operation of state and federal common law.

13. Plaintiffs' claims are barred under theories of Res Judicata, claim preclusions, issue preclusion and/or improper claim splitting.

WHEREFORE, Defendants' request judgment as follows:

1. Dismissing the Complaint of the Plaintiffs on its merits, together with costs and disbursements as well as attorney's fees in favor of Defendants.

2. For such other further relief as the Court may deem just and equitable and to which the Defendants are entitled.

Dated at Wauwatosa, Wisconsin this 8th day of January 2024.

WIRTH + BAYNARD
Attorneys for Defendants

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